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SENATE BILL 490

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

John Arthur Smith

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING AND ENACTING PROVISIONS
OF THE PROPERTY TAX CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-35-2 NMSA 1978 (being Laws 1973,
Chapter 258, Section 2, as amended by Laws 1994, Chapter 9,
Section 1 and by Laws 1994, Chapter 9, Section 2) is amended to
read:

"7-35-2. DEFINITIONS.--As used in the Property Tax Code:

A. "department" or "division" means the taxation
and revenue department, the secretary [~~of taxation and revenue~~]
or any employee of the department exercising authority lawfully
delegated to that employee by the secretary;

B. "director" means the secretary;

C. "livestock" means cattle, buffalo, horses,

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1 mules, sheep, goats, swine, ratites, alpacas and other domestic
2 animals useful to man;

3 D. "manufactured home" means a manufactured home as
4 that term is defined in Section 66-1-4.11 NMSA 1978;

5 E. "net taxable value" means the value of property
6 upon which the tax is imposed and is determined by deducting
7 from taxable value the amount of any exemption authorized by
8 the Property Tax Code;

9 F. "nonresidential property" means property that is
10 not residential property;

11 G. "owner" means the person in whom is vested any
12 title to property;

13 H. "person" means an individual or any other legal
14 entity;

15 I. "property" means tangible property, real or
16 personal;

17 J. "residential property" means property consisting
18 of one or more dwellings together with appurtenant structures,
19 the land underlying both the dwellings and the appurtenant
20 structures and a quantity of land reasonably necessary for
21 parking and other uses that facilitate the use of the dwellings
22 and appurtenant structures. As used in this subsection,
23 "dwellings" includes both manufactured homes and other
24 structures when used primarily for permanent human habitation,
25 but the term does not include structures when used primarily

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1 for temporary or transient human habitation such as hotels,
2 motels and similar structures;

3 K. "secretary" means the secretary of taxation and
4 revenue and, except for purposes of Section 7-35-6 NMSA 1978
5 [~~and Paragraphs (1) and (2) of Subsection B of Section 7-38-90~~
6 ~~NMSA 1978~~], also includes the deputy secretary or a division
7 director or deputy division director delegated by the
8 secretary;

9 L. "tax" means the property tax imposed under the
10 Property Tax Code;

11 M. "taxable value" means the value of property
12 determined by applying the tax ratio to the value of the
13 property determined for property taxation purposes;

14 N. "tax rate" means the rate of the tax expressed
15 in terms of dollars per thousand dollars of net taxable value
16 of property;

17 O. "tax ratio" means the percentage established
18 under the Property Tax Code that is applied to the value of
19 property determined for property taxation purposes in order to
20 derive taxable value; and

21 P. "tax year" means the calendar year."

22 Section 2. Section 7-35-4 NMSA 1978 (being Laws 1973,
23 Chapter 258, Section 7) is amended to read:

24 "7-35-4. DEPARTMENT TO PROVIDE MANUALS AND OTHER
25 MATERIALS.--The department shall [~~prepare, issue and~~

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1 ~~periodically revise~~ provide valuation manuals, cost and
2 valuation schedules, bulletins and annotated digests of
3 property tax laws and regulations in handbook form for the use
4 of its employees, the county assessors and their employees and
5 other persons involved in the administration and collection of
6 the property tax. The department shall make the foregoing
7 materials available to members of the public and may charge a
8 fee for the materials to offset the cost of physical
9 preparation. Any amounts collected are appropriated to the
10 department for its operation."

11 Section 3. Section 7-36-21.3 NMSA 1978 (being Laws 2000,
12 Chapter 21, Section 1, as amended) is amended to read:

13 "7-36-21.3. LIMITATION ON INCREASE IN VALUE FOR SINGLE-
14 FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS SIXTY-FIVE YEARS
15 OF AGE OR OLDER OR DISABLED.--

16 A. For the 2001 and subsequent tax years, the
17 valuation for property taxation purposes of a single-family
18 dwelling owned and occupied by a person who is sixty-five years
19 of age or older and whose modified gross income, as defined in
20 the Income Tax Act, for the prior taxable year did not exceed
21 the greater of eighteen thousand dollars (\$18,000) or the
22 amount calculated pursuant to Subsection [G] D of this section
23 shall not be greater than the valuation of the property for
24 property taxation purposes in the:

25 (1) 2001 tax year;

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1 (2) year in which the owner has his sixty-
2 fifth birthday, if that is after 2001; or

3 (3) tax year following the tax year in which
4 an owner who turns sixty-five or is sixty-five years of age or
5 older first owns and occupies the property, if that is after
6 2001.

7 B. For the 2003 and subsequent tax years, the
8 valuation for property taxation purposes of a single-family
9 dwelling owned and occupied by a person who is disabled and
10 whose modified gross income, as defined in the Income Tax Act,
11 for the prior taxable year did not exceed the greater of
12 eighteen thousand dollars (\$18,000) or the amount calculated
13 pursuant to Subsection [G] D of this section shall not be
14 greater than the valuation of the property for property
15 taxation purposes in the:

16 (1) 2003 tax year;

17 (2) year in which the owner is determined to
18 be disabled, if that is after 2003; or

19 (3) tax year following the tax year in which
20 an owner who is disabled or who is determined in that year to
21 be disabled first owns and occupies the property, if that is
22 after 2003.

23 C. The limitation of value specified in Subsections
24 A and B of this section shall be applied in a tax year in which
25 the owner claiming entitlement files with the county assessor

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1 an application for the limitation on a form furnished to him by
2 the assessor. The application shall be filed with the assessor
3 within thirty days after the mailing of the assessor's notice
4 of valuation, pursuant to Section 7-38-20 NMSA 1978. The
5 application form shall be designed by the department and shall
6 provide for proof of age or disability, occupancy and income
7 eligibility for the tax year for which application is made.

8 D. For the 2002 tax year and each subsequent tax
9 year, the maximum amount of modified gross income in
10 Subsections A and B of this section shall be adjusted to
11 account for inflation. The department shall make the
12 adjustment by multiplying the maximum amount for tax year 2000
13 by a fraction, the numerator of which is the consumer price
14 index ending during the prior tax year and the denominator of
15 which is the consumer price index ending in tax year 2000. The
16 result of the multiplication shall be rounded down to the
17 nearest one hundred dollars (\$100), except that if the result
18 would be an amount less than the corresponding amount for the
19 preceding tax year, then no adjustment shall be made. For
20 purposes of this subsection, "consumer price index" means the
21 consumer price index for all urban consumers published by the
22 United States department of labor for the month ending
23 September 30. The department shall publish annually the amount
24 determined by the calculation and distribute it to each county
25 assessor no later than December 1 of each tax year.

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1 E. The limitation of value specified in Subsections
2 A and B of this section does not apply to:

3 (1) a change in valuation resulting from any
4 physical improvements made to the property during the year
5 immediately prior to the tax year or a change in the permitted
6 use or zoning of the property during the year immediately prior
7 to the tax year; or

8 (2) a residential property in the first tax
9 year that is valued for property taxation purposes.

10 F. As used in this section, "disabled" means a
11 person who has been determined to be blind or permanently
12 disabled with medical improvement not expected pursuant to 42
13 USCA 421 for purposes of the federal Social Security Act or is
14 determined to have a permanent total disability pursuant to the
15 Workers' Compensation Act."

16 Section 4. Section 7-38-12.1 NMSA 1978 (being Laws 2003,
17 Chapter 118, Section 2) is amended to read:

18 "7-38-12.1. RESIDENTIAL PROPERTY TRANSFERS--AFFIDAVIT TO
19 BE FILED WITH ASSESSOR.--

20 A. After January 1, 2004, a ~~[person]~~ transferor or
21 its authorized agent or a transferee or its authorized agent
22 presenting for recording with a county clerk a deed, real
23 estate contract or memorandum of real estate contract ~~[for~~
24 ~~recording with a county clerk]~~ transferring an interest in real
25 property classified as residential property for property

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1 taxation purposes shall also file with the county assessor
2 within thirty days of the date of filing with the county clerk
3 an affidavit signed and completed in accordance with the
4 provisions of Subsection B of this section.

5 B. The affidavit required for submission shall be
6 in a form [~~developed~~] approved by the [~~property tax division~~]
7 department and signed by the transferors or their authorized
8 agents or the transferees or their authorized agents of any
9 interest in residential real property transferred by deed or
10 real estate contract. The affidavit shall contain at least the
11 following information [~~to be used only for analytical and~~
12 ~~statistical purposes in the application of appraisal methods~~]:

13 (1) the complete names of all transferors and
14 transferees;

15 (2) the current mailing addresses of all
16 transferors and transferees;

17 (3) the legal description of the real property
18 interest transferred as it appears in the document of transfer;

19 (4) the full consideration, including money or
20 any other thing of value, paid or exchanged for the transfer;
21 and

22 (5) the value and a description of personal
23 property that is included in the sale price.

24 C. Upon receipt of the affidavit required by
25 Subsection A of this section, the county assessor shall place

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1 the date of receipt on the original affidavit. The county
2 assessor shall retain the original affidavit as a [permanent]
3 confidential record and as proof of compliance. The assessor
4 shall index the affidavits in a manner that permits cross-
5 referencing to other records in the assessor's office
6 pertaining to the specific property described in the affidavit.
7 The affidavit and its contents are not part of the valuation
8 record of the assessor.

9 D. The affidavit required by Subsection A of this
10 section shall not be required for:

11 (1) a deed that results from the payment in
12 full or forfeiture by a transferee under a recorded real estate
13 contract or recorded memorandum of real estate contract;

14 (2) a lease of or easement on real property,
15 regardless of the length of term;

16 (3) a deed, patent or contract for sale or
17 transfer of real property in which an agency or representative
18 of the United States, New Mexico or any political subdivision
19 of the state is the named grantor or grantee and authorized
20 transferor or transferee;

21 (4) a quitclaim deed to quiet title or clear
22 boundary disputes;

23 (5) a conveyance of real property executed
24 pursuant to court order;

25 (6) a deed to an unpatented mining claim;

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1 (7) an instrument solely to provide or release
2 security for a debt or obligation;

3 (8) an instrument that confirms or corrects a
4 deed previously recorded;

5 (9) an instrument between husband and wife or
6 parent and child with only nominal actual consideration
7 therefor;

8 (10) an instrument arising out of a sale for
9 delinquent taxes or assessments;

10 (11) an instrument accomplishing a court-
11 ordered partition;

12 (12) an instrument arising out of a merger or
13 incorporation;

14 (13) an instrument by a subsidiary corporation
15 to its parent corporation for no consideration, nominal
16 consideration or in sole consideration of the cancellation or
17 surrender of the subsidiary's stock;

18 (14) an instrument from a person to a trustee
19 or from a trustee to a trust beneficiary with only nominal
20 actual consideration therefor;

21 (15) an instrument to or from an intermediary
22 for the purpose of creating a joint tenancy estate or some
23 other form of ownership; or

24 (16) an instrument delivered to establish a
25 gift or a distribution from an estate of a decedent or trust.

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1 E. The affidavit required by Subsection A of this
2 section shall not be construed to be a valuation record
3 pursuant to Section 7-38-19 NMSA 1978.

4 F. Prior to November 1, 2003, the department shall
5 print and distribute to each county assessor affidavit forms
6 for distribution to the public upon request."

7 Section 5. Section 7-38-49 NMSA 1978 (being Laws 1973,
8 Chapter 258, Section 89) is amended to read:

9 "7-38-49. UNPAID PROPERTY TAXES--IMPOSITION OF
10 INTEREST.--If property taxes are not paid for any reason within
11 thirty days after the date they are due, interest on the unpaid
12 taxes shall accrue from the thirtieth day after they are due
13 until the date they are paid. Interest shall accrue at the
14 rate of one percent a month or any fraction of a month.
15 Interest shall accrue whether or not protests have been
16 resolved. However, in the case of a timely protest, interest
17 payable shall be computed on a principal amount equal to the
18 unpaid taxes finally determined to be due upon resolution of
19 the protest. Interest shall not be imposed on interest or on
20 any penalty. Interest accrued pursuant to the provisions of
21 this section shall not be waived by the state or by a political
22 subdivision of the state."

23 Section 6. Section 7-38-50 NMSA 1978 (being Laws 1973,
24 Chapter 258, Section 90, as amended) is amended to read:

25 "7-38-50. DELINQUENT TAXES--CIVIL PENALTIES.--

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1 A. If property taxes become delinquent, a penalty
2 of one percent of the delinquent taxes for each month or any
3 portion of a month they remain unpaid shall be imposed, but the
4 total penalty shall not exceed five percent of the delinquent
5 taxes except that, when the penalty determined under the
6 foregoing provisions of this subsection is less than five
7 dollars (\$5.00), the penalty to be imposed shall be five
8 dollars (\$5.00).

9 B. A county may suspend for a particular tax year
10 application of the minimum penalty requirements of [~~this~~]
11 Subsection A of this section by resolution of its county
12 commissioners adopted not later than September 1 of that tax
13 year. A copy of any such resolution shall be forwarded to the
14 county treasurer.

15 C. Except as provided in Subsection B of this
16 section, penalties imposed pursuant to Subsection A of this
17 section shall not be waived by the state or by a political
18 subdivision of the state.

19 [~~B.~~] D. If property taxes become delinquent because
20 of an intent to defraud by the property owner, fifty percent of
21 the property taxes due or fifty dollars (\$50.00), whichever is
22 greater, shall be added as a penalty."

23 Section 7. A new section of the Property Tax Code is
24 enacted to read:

25 "[NEW MATERIAL] RECEIPT FOR PAYMENT OF DELINQUENT TAXES--

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1 DISTRIBUTION.--At the time a county treasurer receives payment
2 of delinquent taxes, penalties, interest and costs, the county
3 treasurer shall issue a receipt to the property owner. The
4 county treasurer shall note the payment of the property taxes,
5 penalties, interest and costs on the property tax schedule and
6 shall distribute the property taxes to the appropriate
7 governmental units according to rules of the department of
8 finance and administration."

9 Section 8. A new section of the Property Tax Code is
10 enacted to read:

11 "[NEW MATERIAL] COUNTY TREASURER TO PREPARE PAYMENT
12 REPORT.--A county treasurer shall prepare a monthly report of
13 all payments of property taxes, penalties, interest and costs
14 received on properties listed on the tax delinquency list and
15 shall submit the report to the department together with the
16 distribution of the penalties, interest and costs pursuant to
17 Section 7 of this 2004 act. The report shall be in a form
18 prescribed by the department and shall contain the following
19 information:

- 20 A. the name of the county;
- 21 B. the account number reflected on the tax
22 delinquency list to which payment was applied;
- 23 C. the base amount of property taxes paid;
- 24 D. the amount of penalty paid;
- 25 E. the amount of interest paid; and

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1 F. the amount of costs paid."

2 Section 9. Section 7-38-65 NMSA 1978 (being Laws 1973,
3 Chapter 258, Section 105, as amended) is amended to read:

4 "7-38-65. COLLECTION OF DELINQUENT TAXES ON REAL
5 PROPERTY--SALE OF REAL PROPERTY.--

6 A. If a lien exists by the operation of Section
7 7-38-48 NMSA 1978, the department may collect delinquent taxes
8 on real property by selling the real property on which the
9 taxes have become delinquent. The sale of real property for
10 delinquent taxes shall be in accordance with the provisions of
11 the Property Tax Code. Real property may be sold for
12 delinquent taxes at any time after the expiration of three
13 years from the first date shown on the tax delinquency list on
14 which the taxes became delinquent. Real property shall be
15 offered for sale for delinquent taxes either within four years
16 after the first date shown on the tax delinquency list on which
17 the taxes became delinquent or, if the department is barred by
18 operation of law or by order of a court of competent
19 jurisdiction from offering the property for sale for delinquent
20 taxes within four years after the first date shown on the tax
21 delinquency list on which the taxes became delinquent, within
22 one year from the time the department determines that it is no
23 longer barred from selling the property, unless:

24 (1) all delinquent taxes, penalties, interest
25 and costs due are paid by [~~5:00 p.m. of the day prior to~~] the

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1 date ~~[of]~~ and time the sale is scheduled to begin; or

2 (2) an installment agreement pursuant to
3 Section 7-38-68 NMSA 1978 for payment of all delinquent taxes,
4 penalties, ~~[interests]~~ interest and costs due is entered into
5 with the department by ~~[5:00 p.m. of the day prior to]~~ the date
6 ~~[of]~~ and time the sale ~~[pursuant to Section 7-38-68 NMSA 1978]~~
7 is scheduled to begin.

8 B. Failure to offer property for sale within the
9 time prescribed by Subsection A of this section shall not
10 impair the validity or effect of any sale ~~[which]~~ that does
11 take place.

12 C. The time requirements of this section are
13 subject to the provisions of Section 7-38-83 NMSA 1978."

14 Section 10. Section 7-38-66 NMSA 1978 (being Laws 1973,
15 Chapter 258, Section 106, as amended by Laws 2001, Chapter 253,
16 Section 2 and by Laws 2001, Chapter 254, Section 2) is amended
17 to read:

18 "7-38-66. SALE OF REAL PROPERTY FOR DELINQUENT TAXES--
19 NOTICE OF SALE.--

20 A. At least twenty days but not more than thirty
21 days before the date of the sale of real property for
22 delinquent taxes, the department shall notify by certified
23 mail, return receipt requested, ~~[to the address as shown]~~ the
24 current assessed owner of the real property whose name appears
25 on the most recent property tax schedule ~~[each property owner~~

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1 ~~whose real property will be sold~~] that the [owner's] real
2 property will be sold to satisfy delinquent taxes, unless:

3 (1) all delinquent taxes, penalties, interest
4 and costs due are paid by ~~[5:00 p.m. of the day prior to]~~ the
5 date [of] and time the sale is scheduled to begin; or

6 (2) an installment agreement pursuant to
7 Section 7-38-68 NMSA 1978 for payment of all delinquent taxes,
8 penalties, interest and costs due is entered into with the
9 department by ~~[5:00 p.m. of the day prior to]~~ the date [of] and
10 time the sale [~~in accordance with Section 7-38-68 NMSA 1978~~] is
11 scheduled to begin.

12 B. The notice shall also:

13 (1) state the total amount of taxes,
14 penalties, interest and costs due;

15 (2) state the date, time and place of the
16 sale;

17 (3) describe the real property that will be
18 sold;

19 (4) inform the property owner of his right to
20 enter into an installment agreement with the department for
21 payment of delinquent taxes, penalties, interest and costs, in
22 accordance with Section 7-38-68 NMSA 1978;

23 (5) provide information on the name and phone
24 number of the individual in the department the [~~taxpayer~~] owner
25 can contact to arrange for an installment agreement in

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1 accordance with Section 7-38-68 NMSA 1978; and

2 (6) contain any other information that the
3 department may require by regulation.

4 C. At the same time a notice required by Subsection
5 A of this section is sent [~~to the owner of the property~~], a
6 notice containing the information set out in Subsection B of
7 this section shall also be sent to:

8 (1) the delinquent owner as reflected on the
9 tax delinquency list;

10 (2) the owner of record as recorded on the
11 deed with the county clerk's office in the county in which the
12 property is located; and

13 (3) each person holding a lien or security
14 interest [~~of record~~] in the property as recorded on the lien,
15 mortgage or real estate contract with the county clerk's office
16 in the county in which the property is located if an address
17 for such person is reasonably ascertainable through a search of
18 the property records of the county [~~in which the property is~~
19 ~~located~~] clerk's office.

20 D. Failure of the department to mail a required
21 notice by certified mail, return receipt requested, shall
22 invalidate the sale; provided, however, that return to the
23 department of the [~~notice of the~~] return receipt or certified
24 notice shall be deemed adequate notice and shall not invalidate
25 the sale.

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1 E. Proof by the taxpayer that all delinquent taxes,
2 penalties, interest and costs had been paid by [~~5:00 p.m. of~~
3 ~~the day prior to~~] the date [of] and time the sale is scheduled
4 to begin shall prevent or invalidate the sale.

5 F. Proof by the taxpayer that the taxpayer has, by
6 [~~5:00 p.m. of the day prior to~~] the date [of] and time the sale
7 is scheduled to begin, entered into an installment agreement to
8 pay all delinquent taxes, penalties, interest and costs as
9 provided in Section 7-38-68 NMSA 1978 and that timely payments
10 under such agreement are being made shall prevent or invalidate
11 the sale.

12 G. The time requirements of this section are
13 subject to the provisions of Section 7-38-83 NMSA 1978."

14 Section 11. Section 7-38-67 NMSA 1978 (being Laws 1973,
15 Chapter 258, Section 107, as amended by Laws 2001, Chapter 253,
16 Section 3 and by Laws 2001, Chapter 254, Section 3) is amended
17 to read:

18 "7-38-67. REAL PROPERTY SALE REQUIREMENTS.--

19 A. Real property may not be sold for delinquent
20 taxes before the expiration of three years from the first date
21 shown on the tax delinquency list on which the taxes on the
22 real property became delinquent.

23 B. Notice of the sale shall be published in a local
24 newspaper within the county where the real property is located
25 or, if there is no local county or municipal newspaper, then a

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1 newspaper published in a county contiguous to or near the
2 county in which the real property is located, at least once a
3 week for the three weeks immediately preceding the week of the
4 sale. For more generalized notice, the department may choose
5 to publish notice of the sale also in a newspaper not published
6 within the county and of more general circulation. The notice
7 shall state the date, time and place ~~[of]~~ where the sale is to
8 be conducted and shall include ~~[a description]~~:

9 (1) the delinquent owner's name as reflected
10 on the tax delinquency list;

11 (2) the legal description of the real property
12 as reflected on the tax delinquency list;

13 (3) the minimum sale price; and

14 (4) the approximate location of the real
15 property sufficient to permit its identification and location
16 by potential purchasers.

17 C. Real property shall be sold at public auction
18 either by the department or an auctioneer hired by the
19 department. The auction shall be held in the county where the
20 real property is located at a time and place designated by the
21 department.

22 ~~[D. If the real property can be divided so as to~~
23 ~~enable the department to sell only part of it and pay all~~
24 ~~delinquent taxes, penalties, interest and costs, the department~~
25 ~~may, with the consent of the owner, sell only a part of the~~

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1 ~~real property.~~

2 ~~E.]~~ D. Before the sale, the department shall
3 determine a minimum sale price for the real property. [~~In~~
4 ~~determining the minimum price, the department shall consider~~
5 ~~the value of the property owner's interest in the real~~
6 ~~property]~~ The minimum sale price shall include the amount of
7 [~~all delinquent taxes, penalties and interest for which it is~~
8 ~~being sold and the costs. The minimum price shall not be less~~
9 ~~than the total of]~~ all delinquent taxes, penalties, interest
10 and costs. Real property may not be sold for less than the
11 minimum price unless no offer met the minimum price [~~when it~~
12 ~~was offered]~~ at an earlier public auction. A sale properly
13 made under the authority of and in accordance with the
14 requirements of this section constitutes full payment of all
15 delinquent taxes, penalties and interest that are a lien
16 against the property at the time of sale, and the sale
17 extinguishes the lien.

18 [~~F.]~~ E. Payment shall be made in full by the close
19 of the public auction [~~before an offer may be deemed accepted~~
20 ~~by the department]~~.

21 F. If a successful bidder fails to make payment in
22 full by the close of the public auction, the department may
23 preclude the bidder from bidding at future auctions, and the
24 bidder will be responsible for all costs, expenses and attorney
25 fees expended in the attempt to collect the bid.

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1 G. Real property not offered for sale may be
2 offered for sale at a later sale, but the requirements of this
3 section and Section 7-38-66 NMSA 1978 shall be met in
4 connection with each sale."

5 Section 12. Section 7-38-68 NMSA 1978 (being Laws 1973,
6 Chapter 258, Section 108, as amended) is amended to read:

7 "7-38-68. INSTALLMENT AGREEMENTS.--

8 A. The [~~division~~] department may enter into an
9 installment agreement for the payment of all delinquent
10 property taxes, penalties, interest and costs due with respect
11 to [~~either~~] real property [~~or a manufactured home~~] on the tax
12 delinquency list with the owner of record of the real property
13 [~~or manufactured home whose taxes have become delinquent and~~
14 ~~whose account for all or part of the delinquent taxes has been~~
15 ~~transferred for collection to the division] as recorded on the
16 deed with the county clerk's office in the county in which the
17 real property is located. Execution of an installment
18 agreement under this section by a property owner is an
19 irrevocable admission of liability for all taxes that are the
20 subject of the agreement. The installment agreement shall be
21 in writing and shall not extend for a period of more than
22 thirty-six months. Interest shall accrue on the unpaid
23 [~~balance~~] principal during the period of the installment
24 agreement. The rate of interest shall be one percent a month,
25 and no other interest or penalty on that portion of the~~

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1 principal representing unpaid taxes shall accrue while an
2 installment agreement is in effect. The ~~[division]~~ department
3 shall not enter into an installment agreement with a property
4 owner ~~[on or after the date of the initial sale of real~~
5 ~~property or manufactured home for delinquent taxes whether or~~
6 ~~not the real property or manufactured home is sold and a deed~~
7 ~~issued as a result of that sale. The division]~~ after
8 commencement of the scheduled sale of the real property for
9 delinquent taxes. The real property shall not be removed from
10 the sale list unless the requirements to enter into an
11 installment agreement are met prior to the commencement of the
12 scheduled sale of the real property. The department shall
13 promulgate regulations establishing requirements for ~~[a minimum~~
14 ~~down payment and substantially equal monthly payments for]~~
15 entering into installment agreements.

16 B. An installment agreement prevents any further
17 action to collect the delinquent taxes stated in the agreement
18 as long as the terms of the agreement are met.

19 C. The ~~[division]~~ department may proceed under the
20 Property Tax Code to collect the property taxes, penalties,
21 interest and costs due and unpaid if:

22 (1) installment payments are not made on or
23 before the dates specified in the agreement;

24 (2) the property owner fails to pay other
25 property taxes when required; or

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1 (3) any other condition contained in the
2 agreement is not met.

3 D. For the purpose of computing the time when real
4 property [~~or a manufactured home~~] may be sold for delinquent
5 taxes, the date of original delinquency shall be used when the
6 delinquent taxes have been the subject of an installment
7 agreement that was subsequently breached by the property owner.

8 E. If an owner of real property [~~or a manufactured~~
9 ~~home~~] enters into an installment agreement and subsequently
10 breaches the agreement under this section, the [~~division~~]
11 department shall not enter into another installment agreement
12 with that property owner for the payment of the delinquent
13 taxes that were the subject of the installment agreement.

14 F. [~~Alphabetically indexed and serially numbered~~
15 ~~records of installment agreements must be kept~~] Installment
16 agreements shall be indexed by installment agreement number and
17 name and retained in the office of the director and made
18 available for public inspection."

19 Section 13. Section 7-38-70 NMSA 1978 (being Laws 1973,
20 Chapter 258, Section 110, as amended) is amended to read:

21 "7-38-70. ISSUANCE OF DEEDS AS RESULT OF SALE OF REAL
22 PROPERTY FOR DELINQUENT TAXES--EFFECT OF DEEDS--LIMITATION OF
23 ACTION TO CHALLENGE CONVEYANCE.--

24 A. Upon receiving payment for real property sold
25 for delinquent taxes, the [~~division~~] department shall [~~execute~~

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1 ~~and deliver a deed~~ issue a receipt to the purchaser. The
2 purchaser has no property rights or right of entry to the
3 property purchased until the department delivers to the
4 purchaser a deed consummating the sale.

5 B. ~~[If the real property was sold substantially in~~
6 ~~accordance with the Property Tax Code]~~ No later than six weeks
7 after the date of the sale, after determining that the sale
8 substantially complied with the Property Tax Code, the
9 department shall execute and mail a deed to the purchaser. The
10 deed conveys all of the former property owner's interest in the
11 real property as of the date the state's lien for real property
12 taxes arose in accordance with the Property Tax Code, subject
13 only to perfected interests ~~[in the real property existing~~
14 ~~before the date the property tax lien arose]~~. The state deed
15 issued for real property sold for delinquent taxes has the same
16 effect as a quitclaim deed and does not warrant title.

17 C. After two years from the date of sale, neither
18 the former real property owner ~~[shown on the property tax~~
19 ~~schedule as the delinquent taxpayer]~~ of record as recorded on
20 the deed with the county clerk's office in the county in which
21 the real property is located nor anyone claiming through him
22 may bring an action challenging the conveyance.

23 D. Subject to the limitation of Subsection C of
24 this section, in all controversies and suits involving title to
25 real property held under a deed from the state issued under

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1 this section, any person claiming title adverse to that
2 acquired by the deed from the state [~~must~~] shall prove, in
3 order to defeat the title, that:

4 (1) the real property was not subject to
5 taxation for the tax years for which the delinquent taxes for
6 which it was sold were imposed;

7 (2) the [~~division~~] department failed to mail
8 the notice required under Section 7-38-66 NMSA 1978 or to
9 receive any required return receipt or certified notice;

10 (3) he, or the person through whom he claims,
11 had title to the real property that was reflected on a deed
12 recorded with the county clerk's office in the county in which
13 the real property is located at the time of the sale and had
14 paid all delinquent taxes, penalties, interest and costs prior
15 to the sale as provided in Subsection E of Section 7-38-66 NMSA
16 1978; or

17 (4) he, or the person through whom he claims,
18 had entered into an installment agreement to pay all delinquent
19 taxes, penalties, interest and costs prior to the sale as
20 provided in Section 7-38-68 NMSA 1978 and that all payments due
21 were made timely.

22 E. In the event a deed is canceled pursuant to the
23 requirements set forth in Subsection D of this section, only
24 the amount paid for the real property at the sale is subject to
25 refund. No interest or expenses shall be paid to the buyer

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1 regardless of the basis for the cancellation."

2 Section 14. Section 7-38-71 NMSA 1978 (being Laws 1973,
3 Chapter 258, Section 111, as amended) is amended to read:

4 "7-38-71. DISTRIBUTION OF AMOUNTS RECEIVED FROM SALE OF
5 PROPERTY.--

6 A. Money received by the department from the sale
7 of real or personal property for delinquent property taxes
8 shall be deposited in a suspense fund and distributed as
9 follows:

10 (1) first, that portion equal to the costs
11 shall be retained by the department for use, subject to
12 appropriation by the legislature, in administration of the
13 Property Tax Code;

14 (2) second, that portion equal to the
15 penalties and interest due shall be retained by the department
16 for use, subject to appropriation by the legislature, by the
17 department in administration of the Property Tax Code;

18 (3) third, that portion equal to the
19 delinquent taxes due shall be remitted by the department to the
20 appropriate county treasurer for distribution by the treasurer
21 to the governmental units in accordance with the law and the
22 regulations of the department of finance and administration;
23 and

24 (4) the balance shall be paid to the former
25 owner of [~~the property sold~~] record of the property sold as

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1 recorded on the deed with the county clerk's office in the
2 county in which the property is located or to any other person
3 designated by order directed to the department by a court of
4 competent jurisdiction; provided that the department may first
5 apply all or any portion of the balance to be paid against the
6 amount of any property tax, including any penalty and interest
7 related thereto, owed by the person to whom the balance would
8 otherwise be paid.

9 B. As a condition precedent to payment of the
10 balance of the sale amount received to the former owner of the
11 property, the [~~department may require any~~] person claiming to
12 be entitled to that payment [~~to~~] shall present sufficient
13 evidence of proof of former ownership of the property to the
14 department. The department shall adopt regulations providing
15 for the procedures to be followed by persons claiming sale
16 proceeds as former owners in those instances where conflicting
17 claims exist or the department requires proof of ownership.

18 C. If no person claims the balance of sale
19 proceeds, whether the property was sold under the provisions of
20 the Property Tax Code or prior law, as the former owner of the
21 property within two years of the date of the sale and after a
22 reasonable search to determine the former owner is made by the
23 department and no former owner is found, the balance of the
24 sale proceeds shall be considered abandoned property and
25 deposited in accordance with the provisions of the Uniform

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Unclaimed Property Act.

D. If the balance of proceeds from the sale after paying a higher priority claim under Subsection A of this section is insufficient to pay all of the next priority claim, then the complete balance shall be applied to that next priority claim as partial payment."

Section 15. APPLICABILITY.--The provisions of this act apply to the 2004 and subsequent property tax years.